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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,017	04/23/2004	Vincent Bourget	Q81187	7658

7590 10/26/2005  
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EXAMINER

PAK, SUNG H

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/830,017

Applicant(s)

BOURGET, VINCENT

Examiner

Sung H. Pak

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Applicant's response filed 8/17/2005 has been carefully studied by the examiner. In response, the previous ground of rejection has been withdrawn. However, upon further consideration, the claims are rejected based on a new ground of rejection provided herein.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 56-14207 (JP'207).

JP'207 discloses an optical fiber cable with all the limitations set forth in the claims including: an optical fiber cable comprising: a central reinforcing element ('1' Fig. 1; abstract); a layer of optical fibers ('2' Fig. 1) surrounding the central reinforcing element; a buffer layer ('3' Fig. 1) surrounding the layer of optical fibers; the cable being characterized in that it has only a single layer of optical fibers surrounding the central reinforcing element (Fig. 1), in that the buffer layer presses the optical fibers against the central reinforcing element in such a manner as to couple the optical fibers mechanically to the central reinforcing element by contact between the bare optical fibers and the central reinforcing element (Fig. 1; abstract).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 56-14207 (JP'207).

JP'207 discloses an optical fiber cable with all limitations set forth in the claims except it does not explicitly teach the use of "an outer sheath".

Specifically, JP'207 discloses: an optical fiber cable comprising: a central reinforcing element ('1' Fig. 1; abstract); a layer of optical fibers ('2' Fig. 1) surrounding the central reinforcing element; a buffer layer ('3' Fig. 1) surrounding the layer of optical fibers; the cable being characterized in that it has only a single layer of optical fibers surrounding the central reinforcing element (Fig. 1), in that the buffer layer presses the optical fibers against the central reinforcing element in such a manner as to couple the optical fibers mechanically to the central reinforcing element by contact between the bare optical fibers and the central reinforcing element (Fig. 1; abstract), said mechanical coupling reducing relative longitudinal movements between the optical fibers and the central reinforcing element during temperature variations of the cable (abstract); and in that the portion of the buffer layer in contact with the bare optical fibers is constituted by a material that is both solid and flexible (abstract-polymer material).

Art Unit: 2874

On the other hand, the use of an outer sheath surrounding the buffer layer is well known and common in the optical fiber cable art. Such outer sheath is commonly and advantageously used to provide mechanical protection against harsh environmental factors, such as moisture, etc. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of JP'207 to have outer sheath surrounding the buffer layer.

It is noted that claims contain functional language. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function alone. MPEP 2114. Since the examiner has determined that the recited functions can be performed by the prior art structure, all the functional limitations of the pending claims are fully anticipated by the cited prior art. See also *In re Swinehart*, 169 USPQ 226 (CCPA 1971); *In re Schreiber*, 44 USPQ2d 1429 (Fed. Cir. 1997).

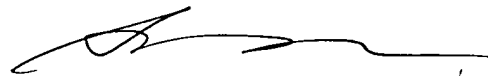
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sung H. Pak whose telephone number is (571) 272-2353. The examiner can normally be reached on Monday- Friday, 9AM-5PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2874

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sung H. Pak  
Primary Patent Examiner  
Art Unit 2874